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ON
JOHN MARSHALL

DELIVERED BY
HON. GEO. H. WILLIAMS

BEFORE THE
LEGISLATIVE ASSEMBLY
OF THE
STATE OF OREGON

FEBRUARY 1, 1901



SALMON, OREGON
W. H. LEEDS, STATE PRINTER
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Daniel Webster, in one of his great speeches, said : " By ascending to an association with our ancestors, by contemplating their example and studying their character, by partaking their sentiments and imbibing their spirits, by accompanying them in their toils, by sympathizing in their sufferings and rejoicing in their successes and triumphs, we mingle our existence with theirs and seem to belong to their age." Today, we commemorate the appointment one hundred years ago of John Marshall as Chief Justice of the Supreme Court of the United States, and ascend with hearts full of pride and gratitude to an association with the men and events of that day. Washington, Madison, Hamilton, Jefferson and many others not less worthy were working out the problem of self-government ; but in this constellation of patriots and statesmen none shone with a clearer, steadier and stronger light than John Marshall. Whatever may have been the shortcomings of Virginia in modern times, when she was a colony she was old enough and good enough to produce men whose deeds shed imperishable luster upon the history of our country. Washington deservedly and by universal consent holds the first place in the hearts of his countrymen ; but if merit is to be determined by the value of his services, then, next to Washington among Virginians, John Marshall "leads all the rest."

To say this is not to disparage the great abilities or merits of Madison, Jefferson, or others, but to say that Marshall had greater opportunity than his compeers to render valuable services to his country. And I may add that Jefferson and Madison made some serious mistakes as to matters of government, but none of any consequence was ever made by Marshall. Thomas Jefferson devoted his great talents and influence to the cause of his country in the War of the Revolution, but when the independence of the colonies was achieved he differed with Washington, Hamilton, Jay, and others as to the nature of the general government and the rights of the states; and his resolutions of 1798, incubated by slavery, finally broke out into a bloody war for the dissolution of the Union. Madison was infected with the same ideas, as indicated in his Virginia resolutions of 1799, but in his old age he became more conservative and more favorable to the supremacy of the federal government.

Marshall, from the beginning of his public career to the end of his life, builded, supported, and defended an indestructible Union, under a government within its constitutional limits, of absolute sovereignty over the states. Washington, Hamilton and Adams, with their followers, called "the federal party," favored a broad and liberal construction of the constitution, adequate to the growing necessities of the country. Jefferson, Madison, and their followers, called "the anti-federalists," held to a strict and narrow construction of the constitution. Though the federal party, on account of its views of the constitution, went down, the drift of all political parties of the present day is in favor of the federal theory of the government. I can remember the time when the dominant party of the country held that appropriations by congress for a system of internal improvements were unconstitutional; but now all parties hold otherwise, and the statesmanship of a senator or representative in congress is measured by the amount of money he can extract from the public treasury to improve the locality in which he lives. One of the main issues in the late presidential elec-

tion was as to which party had gone, or would go farthest, through congressional legislation, to regulate and control the business affairs of the country, which formerly were supposed to belong exclusively to the states. One of the mischievous tendencies of the time, in my judgment, is to make the general government too much the guardian and benefactor of individual and local interests.

Great men are born, and not made by education or opportunity ; but opportunity is as necessary to the display of greatness as sunshine is to the growth of vegetation. No doubt multitudes of men as great as any named in history have lived and died in obscurity for the want of an opportunity to exploit their greatness. Washington, without the revolution, might have continued a respectable planter of Virginia. Lincoln, without the slavery agitation, might have continued a lawyer of local fame in Illinois, and Grant might have remained a humble tanner at Galena, without the war of the rebellion. But great men come with great opportunities, and the world resounds with their fame. Marshall was a great man, and he had greater opportunities than his contemporaries to show his greatness. He was appointed Chief Justice in 1801, when our government was in a chrysalis state ; and long after Washington, Adams, Jefferson, Madison and Hamilton had retired to private life, he was placing pillars of strength and stability under the Constitution of the United States. I do not underestimate the value of schools in saying that, while they may cultivate, they cannot create greatness. No man can be a great poet, painter or judge, whether his learning be little or much, without an inborn aptitude for his business. I have seen brilliant lawyers elevated to the bench who made poor judges. I have seen others, with little repute at the bar, make good judicial officers, because they possessed by nature a strong and intuitive sense of right and wrong. Theoretically, courts are organized to administer justice between man and man ; and he whose mind is so constituted that, out of the conflicts of litigation, he can make a righteous judgment, has the first qualification of a good judge. I doubt very much

whether the multitude of law books and the wilderness of judicial decisions we now have are of much, if any, advantage to our courts ; and my reason for this impression is that seventy-five and one hundred years ago, when Marshall and Kent were judges and law books were comparatively scarce, the decisions of the courts were as good as they are at the present time, founded, as the decisions now are, more upon precedents than upon principles.

On the twenty-fourth of September, 1755, just as the sheen of summer was passing into the gold and russet of autumn, a man child was born in Fauquier County, in the colony of Virginia. His name was John Marshall. Virginia was then a new country, sparsely settled with white people, and most of her mountains, streams and forests had never been disturbed by the hand of civilization. Nature, in her primordial freshness and beauty, was the primary department in the education of Marshall. Like Washington and Lincoln, he was a scholar without the benefit of schools. Parental instruction and his own resources were his sole dependence in his early boyhood. To acquire learning under such circumstances is to learn to be industrious, courageous and self-reliant. Men who are educated in this way are apt to make their mark in the world. Ambition, with native vigor of intellect, is the key to success, and it makes little difference in the end to a Lincoln whether he goes through college or reads his books in a log cabin by the light of a blazing pine knot. One of the surprising things about Marshall was his literary and professional attainments, in view of his limited opportunities for an early education. His parents were his only teachers until he was fourteen years of age. When he had learned to read, Shakespeare, Milton and Pope were about the only books to which he had access. To study books like these, away from the allurements of social life, and where unsullied Nature "glows in the stars and blossoms in the trees," opens the youthful mind to grand conceptions of a future career. Between the age of fourteen and eighteen years he was favored with instructions by a private tutor ; and with qualifications acquired in this way, he de-

terminated to enter upon the practice of the law. He commenced to read Blackstone, but the premonitory convulsions of the approaching revolution drew him away from his books to a field of excitement, turmoil and danger.

Patrick Henry's ringing words, "Give me liberty or give me death!" spread like wild fire through the settlements of Virginia, and military companies were formed to emphasize this sentiment. When Marshall was nineteen years of age he was made a lieutenant of one of these companies, and thenceforward for five years he devoted all the energies of his mind and body to the military service of his country. He was subsequently appointed general by the legislature of Virginia, and thereafter, until he became Chief Justice, was known as General Marshall. Few men have been fortunate enough to be distinguished as soldier, statesman and jurist, but distinction as to all these justly belongs to Marshall. Not to mention minor engagements, Marshall commanded a company in the bloody battles of Brandywine, Germantown and Monmouth, and was highly commended by Washington for his skill and gallantry. But more than elsewhere his sterling and soldierly qualities were displayed at Valley Forge. Washington, after his defeat at Germantown, withdrew his exhausted troops to this place for winter quarters. Here officers and men alike were exposed to the rigors and hardships of an unusually severe winter. The weather was extremely cold and the snow knee deep. Hastily and rudely constructed huts were the only protection from the pitiless storm. Many of the men were half naked; few had blankets or shoes, and frequently they were without anything to eat. Washington, referring to Valley Forge, truly said that "no history now extant can furnish an instance of any army suffering such uncommon hardships as ours has done and bearing them with the same patience and fortitude." Marshall was undaunted under these trying circumstances. He devoted himself to the care of the men, comforted the suffering, visited the sick, encouraged the despondent, and was a light and joy to that dreary and dismal camp.

When he was twenty-four years of age, after attending a course of law lectures by Chancellor Wythe, he commenced the practice of law in Richmond. He rose rapidly to the front rank of his profession. He was no orator like Patrick Henry, but what he lacked in brilliancy he made up in strength. He was tall, lean and angular, ungraceful in his gestures, slovenly in his dress, much like Lincoln in these respects; but his mind was active and vigorous, and his speeches remarkable for their clearness, conciseness and force. Marshall was a federalist, and believed that governments were made to govern, and his political friends soon put him forward as their candidate; and in 1782 he was elected to the legislature of Virginia, and twice re-elected.

Local matters were largely absorbed in the great and burning questions concerning the character and powers of a general government, the deplorable condition of the finances of the country, and the claims of the poor and unpaid soldiers of the Revolutionary Army. Whether or not there were those in that legislature who favored a dissolution of the confederacy is a question; but it is an undisputed fact that there was a powerful party opposed to any essential change in the articles of confederation, and who favored the practical sovereignty of the several colonies within their respective jurisdictions. Marshall, from the beginning, was fearless and determined in his contention that the articles of confederation were inadequate to a perfect union, and that there ought to be a better organized and more efficient general government. To Marshall, more than to any other man, is due the decision of Virginia to hold a convention to determine whether or not she would accept or reject the constitution. Patrick Henry, James Madison, James Monroe, John Marshall, Edmund Randolph, and many of the most distinguished men of Virginia were members of that convention.

Such was the state of affairs that upon the decision of this convention depended the creation of a national unity or a relapse by the colonies into independent and rival communities. Patrick Henry, James Monroe and George Mason were

the leaders of those opposed to the constitution ; and John Marshall, James Madison and Edmund Randolph were the leaders of those who favored its ratification.

Patrick Henry opposed the constitution with all the fervor and force of his eloquence, especially upon three grounds. First, he argued that it was dangerous to lodge the power of taxation in congress, as that body would be likely to oppress and rob the people ; and he contended that the general government should depend for its revenues upon the voluntary contributions of the states. Second, he claimed that congress ought not to have the power to declare war, and contended that the exercise of this power would end in a military despotism, and that the military forces of the government would overrun and subjugate the people,—arguments with which we became quite familiar in the late presidential campaign. Third, he opposed the establishment of a supreme court ; because, as he said, it would usurp powers not delegated to it, and destroy the governments of the states. It is easy to see that if these views had obtained, the union would have been little stronger than a rope of sand. Marshall confronted Henry upon all these points with great power and success, and the convention ratified the constitution by a majority of ten votes. It is impossible to speak too highly of the services of Marshall in this convention.

In 1788 he became a member of the state legislature of Virginia. Washington was then President and his administration was bitterly opposed by a majority of this body ; and to such an extent was their hostility carried that when a resolution was offered, expressing confidence in the virtue, patriotism and wisdom of Washington, a motion to strike out the word “wisdom” was lost by a bare majority. Marshall here, as elsewhere, was a steadfast friend and supporter of Washington’s administration. John Jay had made a treaty with Great Britain containing provisions regarding the commerce of the two countries, which the President had approved. This treaty intensified the animosity of the anti-federalists to the administration. They denounced it as unconstitutional ; as insulting to

the dignity and injurious to the interests of the American people. Marshall defended the treaty in a speech that gave him a national reputation. President Washington had a profound respect for the abilities and character of Marshall, and offered to make him Attorney-General, and send him as minister to France; but, desirous of devoting himself to his profession, he declined these appointments. France, at this time in the hands of a directory, with the able and unscrupulous Talleyrand as its master spirit, had seized and confiscated our ships, upon the pretext that Washington had said something in one of his messages offensive to that country, and that the Jay treaty was inimical to its interests. President Adams, anxious to avoid war, appointed Marshall, Pinckney and Gerry envoys extraordinary to adjust the difficulties, if possible, without an appeal to arms. When these envoys arrived in Paris they were insulted and treated with marked disrespect and told that they would not be allowed to open negotiations before they had paid the directory \$250,000, and arranged for a loan by the United States to France. Marshall's correspondence with Talleyrand as to these matters is highly creditable to his head and heart, and, though dignified and moderate in tone, was very pointed to the effect that not a moment's consideration would be given to these mercenary proposals. Nothing came from this embassy, and the envoys returned home to be honored by their fellow citizens for the stand they had taken for the dignity and honor of their country. I have had some little insight into European diplomacy, and where venality does not control, it is little more than a refined system of lying and fraud. False professions of friendship and amity are constantly put forward to conceal selfish schemes or ulterior designs upon the integrity and peace of the country to which the professions are made.

Washington was anxious to have Marshall enter congress; and with reluctance, but in deference to the wishes of the ex-President, in 1799, he became a candidate for that body. He was attacked in the most venomous manner; and with all our admiration for our revolutionary fathers, it must be admitted

that the vituperation and scurrility of party warfare in those days were equal at least to anything of the sort we have in modern times. He was elected by a small majority, and one of the first duties he had to perform after taking his seat was to announce the death of Washington and introduce suitable resolutions, prepared by General Lee, in which appear for the first time those famous words, "First in war, first in peace, and first in the hearts of his countrymen."

His speech upon that occasion was a tender and touching tribute to his distinguished and departed friend. On the thirteenth of June, 1800, he was appointed Secretary of State by John Adams, but his administration of that office was brief, as the presidential term of Adams expired on the fourth of March, 1801, and Marshall was confirmed as Chief Justice on the fourth of February, 1801.

When the Jay treaty was made, France assumed an attitude of hostility to the United States, and afterward, when we made a treaty with France, England assumed a similar attitude, each power presuming to thrust its own interests into our affairs. Touching these matters, Marshall, as Secretary of State, sent a dispatch to Mr. King, our minister in London, in which he said: "The United States do not hold themselves in any degree responsible to France or to Great Britain for their negotiations with one or the other of these powers. We have repelled and will continue to repel injuries not doubtful in their nature, and hostilities not to be misunderstood." It is interesting to note the difference between the supercilious treatment of us by these countries when we were weak and exhausted by the Revolutionary War, and the distinguished consideration they hasten to give us at the present time.

Marshall was forty-six years of age when he was appointed Chief Justice. Several pen pictures were written of him at the time. One writer describes him as a person tall, meager, emaciated, his muscles relaxed, his joints so loosely connected as not only to disqualify him apparently for any vigorous exertion of body, but to destroy everything like harmony in

his air and movements. Another said of him : "He is of a tall, slender frame, not graceful or impressing, but erect and steady. His hair is black, his eyes small and twinkling, his forehead rather low, but his features are in general harmonious. His manners are plain, yet dignified, and an unaffected modesty diffuses itself through all his actions." Daniel Webster spoke of him as a plain man, and further said : "I have never seen a man of whose intellect I had a higher opinion." According to these descriptions, I have been struck with the resemblance between Marshall and his eminent successor, Chief Justice Taney, whom I had the pleasure of meeting in 1852. Taney was tall, thin and meager in person, with a remarkably low forehead, black, piercing eyes, and sharp, strong features ; but he was the impersonation of dignity, and a typical specimen of an old-fashioned courtly gentleman. Taney's opinion in the *Dred Scott Case* will compare favorably with the opinions of Marshall as an intellectual effort ; but the difference is this : Taney's opinion is an ingenious framework of logic, standing, or trying to stand, upon its apex, while the opinions of Marshall are solid structures of reasoning, standing upon a broad, deep, and permanent foundation.

On the twenty-sixth of September, 1789, the supreme court was organized, with John Jay as Chief Justice. He held the office until 1795. Rutledge held the office for one year, and then Ellsworth until 1801 ; so that when Marshall was appointed, the court had been in existence about eleven years and was just upon the threshold of its great responsibilities. We can have but a feeble conception of the difficulties confronting this new forum of law and justice. Here was a court without any precedent in history, with powers never before conferred on any judicial tribunal, starting out on a career very much like the experiment of Columbus in sailing out upon an unknown ocean, without knowing what he would discover or where he would land, or whether or not his voyage would be a disastrous failure. Many, perhaps a majority of the people of that time, looked upon this court as a disguised enemy to the liberties of the people. Its most sanguine friends

had doubts and fears as to its harmonious working with the other departments of the government. While it may be true, as Gladstone said, that "the American Constitution is the most wonderful work ever struck off at a given time by the brain and purpose of man;" it is also true that without a tribunal of final resort to interpret, construe and enforce its provisions, if not a dead letter, it would be the subject of unhappy and endless disputation.

Primarily, and as applicable to all its parts, was the great question whether or not it should be strictly or liberally construed; or, in other words, whether it should be construed according to the letter that killeth, or the spirit that giveth life. All those opposed to the adoption of the constitution, and the republicans, as the anti-federalists were then called, with Jefferson at their head, contended for a strictly literal construction, because they were jealous of the jurisdiction of the federal government and sensitive to the rights of the states; but Marshall, with the wisdom of a seer, and the prevision of a prophet, was of a contrary opinion. Referring to this subject in the case of *Gibbons v. Ogden*, he said: "If counsel contend for that narrow construction which, in support of some theory not to be found in the constitution, would deny to the government those powers which the words of the grant, as usually understood, impart, and which are consistent with the general views and objects of the instrument—for that narrow construction that would cripple the government and render it unequal to the objects for which it is declared to be instituted and to which the powers given, as fairly understood, render it competent, then we cannot perceive the propriety of this strict construction, nor adopt it as a rule by which the constitution is expounded."

Taking all his opinions together, his idea of the constitution seems to have been that, expressly or by implication, it granted to the general government all the necessary and proper means to establish justice, insure domestic tranquility and promote the general welfare, and that these means were largely discretionary; but at the same time he recognized

the doctrine that the general government was one of delegated and limited powers. It is easy to see that to draw the line of demarcation between what was granted and what was withheld by the constitution required great good judgment, and a comprehensive view of the objects and purposes of the government. One of the important questions arising at an early day was whether or not the supreme court had a right to declare an act of congress void upon the ground that it was repugnant to the constitution. This question was decided by Chief Justice Marshall, delivering the opinion of the court in the celebrated case of *Marbury v. Madison*, in which it was held that an act of congress conferring original jurisdiction upon the supreme court in a mandamus case was unconstitutional and void. Some politicians have complained of this decision, but its correctness cannot be successfully challenged.

No decision of Marshall's has been more severely criticised than his decision in the *Dartmouth College Case*. The court held in that case that a charter granted to the college was a contract, and that an act of the legislature of New Hampshire changing it was void, under that clause of the constitution providing that no state shall pass any law impairing the obligation of contracts. Much has been said about the protection this decision gives to corporations; but, be that as it may, it stands like a gleaming rock to support the supremacy of the constitution and the inviolability of contracts. Marshall delivered the opinion of the court in *Fletcher v. Peck*, in which it was held that a grant of land by the State of Georgia was an executed contract, and that an act of its legislature revoking the grant was unconstitutional and void. In the case of *McCulloch v. Maryland*, he defined the words "necessary and proper" in that clause of the constitution providing that congress shall have power to make all laws necessary and proper to carry into execution the powers granted, giving to them a broad and liberal import, so that the general government might provide for the varying exigencies of its administration. In the case of *Gibbons v. Ogden* he decided,

delivering the opinion of the court, that congress had the right to exercise exclusive jurisdiction over the navigation of the navigable waters of the United States. I have referred to these decisions, not so much to discuss or defend them, as to show that John Marshall was a firm and consistent protector and defender of the constitution and of a strong, efficient and successful general government.

Suppose, instead of Jay, Marshall, Ellsworth and their associates, the judges had been of those who held, with the Kentucky resolutions of 1798, to the effect that a sovereign state had a right to nullify the acts of congress, there is reason to apprehend that the union would have fallen to pieces at the start, and rebellion would have triumphed through the supreme court. Suppose that, instead of Lincoln, when the rebellion broke out the President had been of those who held that the general government had no power to coerce a sovereign state, it is highly probable that instead of the joyousness of this day, we should be sorrowing over the "broken and disjointed fragments of a once glorious union." I do not know whether the "Father of Mercies" interferes in a special manner for the protection of men and nations or not, but when I consider how near our union has been to destruction and how wonderfully we have been preserved as a nation, I am sure that faith can find nowhere better evidence of the special favor of Divine Providence to a people than in the history of our country for the last hundred years.

An interesting episode in the life of Marshall was the trial of Aaron Burr. Burr, in respect to his abilities, stood in the front rank of the men of his day; but if what is said of him is true, he was much like Milton's Belial:

"He seemed
For dignity composed and high exploit:
But all was false and hollow."

He was indicted for treason, and his trial came on at the Richmond circuit, Chief Justice Marshall presiding. No man ever in the United States, with perhaps the exception of Benedict Arnold, was so intensely hated as Burr was at this time.

He had killed Hamilton in a duel, and betrayed and abused the confidence of Jefferson and his friends. All the influence of the administration, with Jefferson as President, was thrown in favor of the prosecution, and there was a hurricane of popular clamor for his conviction; notwithstanding which, Marshall decided that the evidence was insufficient to support the indictment, and Burr was acquitted. Shafts of indignation, envenomed by party rancor, were hurled at the head of the Chief Justice for this decision, but to no purpose.

"No fire, nor foe, nor fate, nor night,
This Trojan hero did afright."

Music and banners, the shouting of captains and the surrounding excitement, inspire soldiers on the field of battle to deeds of daring; but the real heroes of the world are men, who, with nothing to encourage them but their own convictions of duty, stand like a stone wall between the friendless and forsaken and the fury of the mad and unreasoning multitude.

I am proud and happy to say, after more than fifty years of experience at the bar, that with few exceptions our judges have been men of this description. Bishop Potter is reported as having said that a majority of the people are of the opinion that the judges of our courts are purchasable. I do not believe a word of it; and in fact I know better, and will venture to say that as to intelligence, integrity and courage, and in public estimation, our judges will compare favorably with the clergymen of our country, Bishop Potter not excepted. Moral more than physical courage is the safeguard of our national life. Law, justice, truth and virtue are the essential elements of our social existence, and their practical ascendancy depends largely upon their fearless support by the pulpits, press and courts of our country.

I am aware that we are apt to exaggerate the wisdom and virtues of our ancestors, but there can be no doubt that the men who argued cases before Marshall were among the greatest, if not the greatest lawyers this country has produced. Webster, Pinckney, Hopkinson, Martin, Ogden and Wirt

were some of the leading members of the bar who practised in the supreme court. Let us imagine ourselves in the court room when the case of *McCulloch v. Maryland* is before the court. Sitting on the right of the Chief Justice are Bushrod Washington, Johnson and Livingston, and on his left Duval and Story. All are clad in black silk robes. No sound disturbs the impressive silence. All eyes are fixed upon and all ears open to hear the great lawyers. Webster, Wirt and Pinckney are on one side, and Martin, Hopkinson and Jones on the other. The question is, whether Maryland has a right to tax a branch of the United States Bank located in that state. Webster opens for the bank. Slowly and clearly he states the issues of the case; and then, as he proceeds to expound the constitution, he becomes more animated. His swarthy complexion lightens up; his big, black eyes glow in their deep sockets; and with argument dovetailed into argument he seems to build an impregnable fortress around his client. Attorney-General Wirt follows on the same side, with a speech interesting and attractive for its rhetorical excellence. Hopkinson and Jones, both eminent in their profession, each make an able argument for the state; and then comes Luther Martin, who stands at the head of the Maryland bar. He denounces the encroachments of the federal government, and pleads with all the earnestness of his ardent nature, and all the force of his great abilities, for the rights of his native state. Expectation is now on tiptoe to hear the eloquent Pinckney. He rises with an air of perfect confidence. He attacks the states' rights doctrine with tremendous energy. He makes the corridors of the court room echo with his resonant voice. All are charmed with the forcefulness of his logic and the splendor of his language. Judge Story said of this effort by Pinckney that he had never heard a greater speech in his life. The court held unanimously that the bank was a proper fiscal agent of the government, and not subject to the taxing powers of a state.

Marshall's opinions are quite elaborate, but they contain no pedantic display of learning or useless glitter of words, but

move on in simplicity and strength, like the current of a deep river to their irrefragable conclusions. I can judge of the merits of Marshall as a public man by his official acts and opinions, but I have to depend upon his biographers for any account of his private life. According to these he was attentive, patient and courteous upon the bench, amiable and affable in society, simple and unpretentious in his manners, and exemplary in his habits. His home, when not occupied with the courts, was a farmhouse, where he was accustomed to lay aside his judicial dignity and pitch quoits with his farmer friends, an amusement in which he delighted and in which he excelled. He was a loving and lovely man in his family, and when his wife died, with whom he had lived happily for forty-eight years, he was overwhelmed with grief and would not be comforted. I hold that the true value of a man is determined by his family and social relations. Men in public life, intent upon notoriety, may be heartless and unscrupulous and under false colors win favor and applause ; but in the home and at the fireside no such disguise can be assumed, and the man really is what he appears to be. The hearthstone is the touchstone of real worth.

Most men in the religious, professional and political world have an ideal—an embodiment of what they would like to be. Though, without doubt, Marshall had passions and feelings like other men, I have discovered no serious flaw in his character, and know of no reason why he should not stand as an ideal for the legal profession. All lawyers cannot be as great as Marshall was, but all lawyers can be as great as he was in all that constitutes the beauty of a character. Marshall was an author as well as a soldier, statesman and jurist, and wrote an exhaustive and accurate life of Washington. He was also a member of the Constitutional Convention of Virginia in 1830, when he was seventy-five years old, and was treated by that body with all the veneration and respect due to his great age and experience.

I was admitted to practice in the supreme court of the United States thirty-five years ago, and have learned to look

upon that court as a great tribunal—the greatest in the world. Forty-five states, with seventy-six millions of people, submit to its jurisdiction and abide by its decisions; and upon this fact we may anchor our hopes for the future preservation and domestic peace of the American Union. Constitutions and creeds, churches and courts, are more or less responsive to public opinion; but the supreme court of the United States is as far removed from the influence of passion and prejudice as it is possible for a human tribunal to be. Sitting in the Capitol, midway between the two houses of congress, and independent of both, this exalted and serene tribunal holds the balances of the government with a firm and equal hand.

Anniversaries like these are instructive and salutary, and appeal to us from the sacred precincts of the tomb to avoid the mistakes and emulate the virtues of the great and good men who have adorned our history. John Marshall, at the ripe old age of eighty, and after he had been Chief Justice thirty-four years, to borrow from the liturgy of the Episcopal Church, to which he belonged, “was gathered to his fathers, having the testimony of a good conscience, in the communion of the catholic church, in the confidence of a certain faith, in the comfort of a reasonable religious and holy hope, in favor with God, and in perfect charity with the world.”

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